

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13314, of John F. Dobricky, III, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Sub-section 7104.2 to change a non-conforming use from general storage, first and second floors, to a restaurant, first and second floors, seating approximately 100 persons, in an R-5-D District at the premises known as 617 New York Avenue and 618-20 L Street, N.W., (Square 450, Lots 35, 828, and 829).

HEARING DATES: July 30 and October 15, 1980
DECISION DATE: November 5, 1980

FINDINGS OF FACT:

1. At the time the application was filed, the record owner of the property was John F. Dobricky, III. Upon filing of the sales contract as Exhibit No. 19 of the record, Bechir D. Kouchacji was substituted as the owner of the property and applicant before the Board.
2. The subject property is located on the north side of New York Avenue and is a through lot made up of three adjoining lots fronting as well on the south side of L Street, at premises known as 617 New York Avenue and 618-20 L Street, N.W.
3. The site is irregularly shaped with 29.09 feet of frontage on New York Avenue and 23.38 feet on L Street.
4. The property is developed with a two story brick building with garage doors on the first floor off New York Avenue and a one story brick garage building off of L Street.
5. To the east of the site on the New York Avenue frontage, is an asphalt paved parking lot for an Italian Restaurant located on the north west corner of New York Avenue and 6th Street, across from which is a police station. To the south is New York Avenue, followed by Columbia Lighting, kam brake shop, a body shop, carry-out and Apex auto parts. To the west abutting the site is a muffler shop, B and B auto, a light fixture company, lumber company and Apex stove company on the corner of New York Avenue and 7th Street all located in the R-5-D District.

6. The uses surrounding the site on the L Street frontage are Martin and Boyd Spring Works and row dwellings owned by the D.C. Government to the south, to the east Martin Boyd Spring Works, Zacchaeus kitchen and a laundry machines company, and to the west, Martin and Boyd Spring Works, all in the R-5-D District.

7. The subject property is currently used as a general storage warehouse, pursuant to Certificate of Occupancy No. A-23621, dated October 28, 1953.

8. The applicant proposes to use the premises as a restaurant seating approximately one-hundred patrons for dinner only, from 6:00 to 11:00 p.m. daily.

9. The applicant proposes to employ approximately thirty-five peoples.

10. Pursuant to Sub-section 7104.2 of the Zoning Regulations, a Class II non-conforming use may be changed to a use which is permitted in the most restrictive district in which the existing non-conforming use is permitted, subject to this Board's approval.

11. The existing use of a general storage facility is first permitted as a matter-of-right in the C-M District. A restaurant is first permitted as a matter-of-right in the C-1 District. Thus, the application complies with Sub-section 7104.2 of the Regulations. The Board notes that when an existing non-conforming use is changed to a conforming or more restrictive use, it shall not be changed back to a non-conforming use or less restrictive use. The proposed change is thus in the direction of conformity with the Regulations and meets the intent and purpose of Section 7104.

12. The proposed restaurant use is not required to provide off-street parking spaces. The applicant stated, however, that employees would not be encouraged to drive to work. On-street parking is available on New York Avenue, which will serve as the main entrance to the restaurant, with the L Street entrance used for loading and deliveries.

13. The applicant testified that because of the evening hours of the restaurant, on-street parking would be sufficient to serve the proposed use. The applicant stated that he also intended to rent parking spaces from one of the adjoining daytime commercial properties.

14. The Office of Planning and Development, by report dated October 8, 1980, and testimony given at the time of public hearing, recommended approval of the application on the grounds that the proposed restaurant use will not be objectionable to the surrounding neighborhood, or circumvent the intent and purpose of the Zoning Regulations. The restaurant use is generally less intensive than the auto repair and other generally heavy commercial type uses adjoining the site. The change of non-conforming use to a less restrictive use is a step in the right direction towards the eventual conversion of the area to permitted uses in the R-5-D District and planned land use objectives. The OPD noted that the restaurant's hours of operation will generally be during evening hours when other businesses in the immediate area will be closed leaving curb parking available to patrons of the restaurant. The Board so finds.

15. There was no report of Advisory Neighborhood Commission 2C on this application.

16. There was no opposition to the granting of this application.

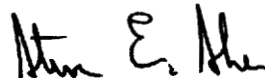
CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing Findings of Fact and the evidence of record, the Board concludes that the applicant has complied with the requirements of Sub-section 7104.2 of the Zoning Regulations. The previous use of a general storage facility is first permitted as a matter-of-right in the C-M District. The proposed use of a restaurant is first permitted as a matter-of-right in the C-1 District. The applicant therefore complies with the requirements of Sub-section 7104.2. The proposed use is less intensive than the prior use. The special exception can be granted as in harmony with the general purpose and intent of the Zoning Regulations, will not tend to affect adversely the use of neighboring property. Accordingly, it is ORDERED that the application is HEREBY GRANTED.

VOTE: 5-0 (Douglas J. Patton, Charles R. Norris, Walter B. Lewis, Connie Fortune and William F. McIntosh to GRANT).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER:

30 DEC 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.